

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant:	DAVID A. SCHEIDMANTEL ET AL.	Group Art Unit: 1772
Application No.:	10/711,979	Examiner: Alexander S. Thomas
Filed:	October 18, 2004	
For:	VEHICULAR TRIM COMPONENT AND COVER WITH SIMULATED STITCH AND /OR SEAM THEREON	

APPELLANT'S REPLY BRIEF TO EXAMINER'S ANSWER
TO APPEAL BRIEF

This is Appellant's Reply to the Examiner's Answer mailed May 14, 2007, pursuant to 37 C.F.R. §41.41, in support of Appellant's appeal of the second Rejection of the Examiner, mailed October 23, 2006, of claims 1-19, 21-27, and 37.

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STATUS OF CLAIMS

Claims 1-36 were in the application as filed. Claim 37 was added. Claims 20 and 28-36 were cancelled without prejudice. Claims 1-19, 21-27, and 37 are pending in the application and have been twice rejected by the Examiner. Accordingly, Appellants hereby appeal the rejection of claims 1-19, 21-27, and 37.

Appellants concur in the Examiner's identification in the Appendix to the Examiner's Answer of the correct writing of claims 1, 6, 12, 14, and 37.

GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

In the Office Action of October 23, 2006, the Examiner rejected claims 1-19, 21-27, and 37, as follows:

- Claims 21-27 and 37 under 35 U.S.C. §112, ¶1, as allegedly failing to comply with the written description requirement. The Examiner stated in the Answer mailed May 14, 2007, that the rejection of claims 21-27 and 37 under 35 U.S.C. §112, ¶1, has been withdrawn because the rejection has been overcome in view of Applicants' arguments in the Appeal Brief.
- Claims 21, 23, and 37 under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No 4,130,623 to Walter ("Walter '623"). Appellants disagree with the Examiner's assertion that Walter '623 anticipates claims 21, 23, and 37.
- Claims 1-3, 14, 21, 26, and 37 under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No 3,802,291 to Young et al. ("Young '291"). Appellants disagree with the Examiner's assertion that Young '291 anticipates claims 1-3, 14, 21, 26, and 37.
- Claims 1-19, 21-27, and 37 under 35 U.S.C. §103(a) as allegedly unpatentable over Applicants' allegedly acknowledged state of the art in view of U.S. Patent Application Publication No. U.S. 2003/0168151 of Wright et al. ("Wright '151"). Appellants disagree with the Examiner's assertion that the combination of Applicants' allegedly acknowledged state of the art and Wright '151 renders claims 1-19, 21-27, and 37 obvious to one skilled in the art.

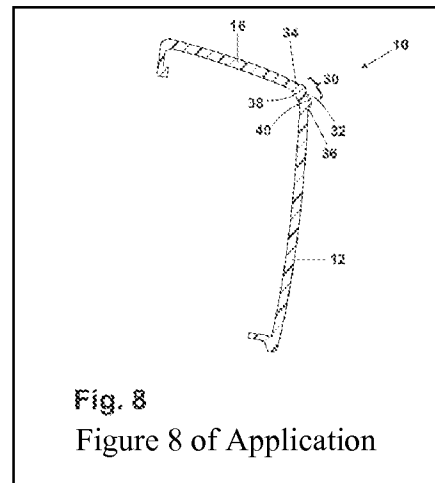
REPLY TO EXAMINER'S ARGUMENTS

A. Claims 21, 23, and 37 are patentable over Walter '623.

Independent claim 37 calls for a simulated seam in a molded polymeric item comprising a cover portion. The simulated seam comprises a pair of ridges formed in generally parallel fashion along an uninterrupted interior portion of the cover portion, and an indentation formed between the ridges in the uninterrupted interior portion. The pair of ridges in cooperation with the indentation therebetween simulates a butt seam. Walter '623 does not disclose each and every element of claim 37 in as complete detail as is contained in claim 37. Thus, claim 37 is patentable over Walter '623.

The Examiner continues to assert that Walter '623, in the form of Figure 5, discloses a cover with simulated stitching comprising a pair of parallel ridges with an indentation formed between the ridges. However, Walter '623 does not disclose a structural element essential to claim 37, i.e. ridges.

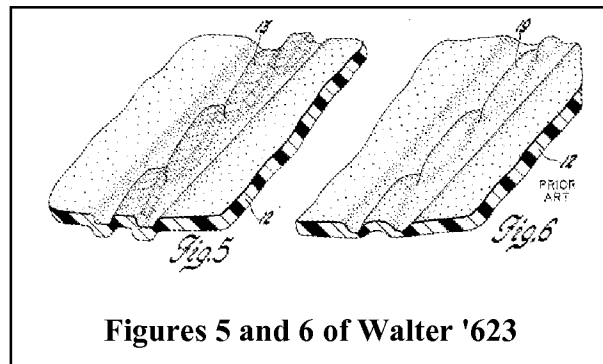
A ridge is identified as "The top, upper part, or crest of anything, esp. when long and narrow.... A long and narrow stretch of elevated ground;...A narrow elevation or raised part running along or across a surface.... A raised line, bank, bed, or strip of something." *The Oxford English Dictionary, 2d Ed., Oxford University Press (1991)*. It is clear from the definition that a ridge is defined by its topographic relationship to the area which it traverses, i.e. it is elevated above the adjacent area. Figure 8 of the Application clearly shows the ridges as elevated above the adjacent surface, consistent with this definition. This feature is also described in the specification wherein it is stated that "regions 38 and 40 between the center seam 32 and the side seams 34 and 36,



respectively, can be textured or raised.” *Application*, [Para. 35], ln. 10-12.

Walter ‘623 does not disclose ridges.

Walter ‘623 discloses a surface interrupted by a trough or trench along which a molded seam line is formed. The edges of the trough are not raised or elevated relative to the adjacent surface, they are not ridges, and they do not define a pair of ridges. Walter ‘623 does not anticipate claim 37.



Moreover, Walter ‘623 does not disclose a simulated butt seam. At most, the stitch line disclosed in Walter ‘623 represents a stitch used to join two lapped pieces of fabric, i.e. one piece positioned on top of the other and joined with a stitch line extending through both pieces. It does not represent two pieces of fabric joined in a butt seam.

Claim 37 requires that the ridges in cooperation with the indentation simulate a butt seam. The particular configuration of the ridges and indentation in claim 37 must simulate a butt seam. This limitation is structural because it defines a specific structural relationship between the ridges and the indentation. The structure shown in Figure 5 of Walter ‘623 does not meet this limitation of claim 37 because it does not disclose a specific structural relationship between the ridges and the indentation that simulates a butt seam.

Claims 21 and 23 depend from claim 37 and, for the same reasons, are not anticipated by Walter ‘623. Nevertheless, claim 23 is independently patentable over Walter ‘623. Walter ‘623 does not disclose a series of indentations formed in generally parallel to the pair of ridges whereby the series of indentations simulate a French seam in conjunction with the pair of ridges, as called for in claim 23. The indentations simulate a series of threaded side seams 34, 36, rather than actually stitching the side seams 34, 36 into the cover. *Application*, p. 14, [Para 41], ln. 3-6. This structure is not disclosed in Walter ‘623.

The Examiner asserts that “there is a series of indentations between the pair of ridges said indentations being generally parallel to the ridges.” The Examiner identifies the linear stitching pattern 13 as the series of indentations. Referring to Figure 5, it is clearly shown that element 13 is a raised feature. Thus, it cannot be a series of indentations. The Examiner attempts to fabricate a series of indentations in a raised feature simply by calling it indentations. However, calling a raised feature a series of indentations does not make it so. The Examiner’s position cannot be sustained. Claim 23 is patentable over Walter ‘623.

For the above reasons, and for the reasons set forth in Applicants’ Appeal Brief, claims 21, 23, and 37 are patentable over Walter ‘623. Applicants request that the rejection be overturned, and that claims 21, 23, and 37 be allowed.

B. Claims 1-3, 14, 21, 26, and 37 are patentable over Young ‘291.

Independent claim 1 calls for a vehicular trim component comprising a base, and a cover associated with the base. The cover comprises an aesthetic feature integrally formed in an uninterrupted portion of the cover and configured to simulate a seam comprising a pair of stitchings. Young ‘291 does not disclose each and every element of claim 1 in as complete detail as is contained in claim 1. Thus, claim 1 is patentable over Young ‘291.

The Examiner continues to assert that a wedge is a cover. It is clear from the specification that Applicant’s cover extends over the entirety of the base with which it is associated. This is consistent with the ordinary, reasonable understanding of the term.

“Cover” is defined as “That which covers: anything that is put or laid over, or that naturally overlies or overspreads an object, with the effect of hiding, sheltering, or enclosing it... That which serves for shelter or concealment... Something that hides, conceals, or screens...” *The Oxford English Dictionary, 2d Ed., Oxford University Press (1991)*. This is the context in which the term is used in the Application, and in claim 1. It does not describe the wedge 106 of Young ‘291.

“Although the PTO must give claims their broadest reasonable interpretation, this interpretation must be consistent with the one that those skilled in the art would reach. See *In re Morris*, 127 F.3d 1048, 1054, 44 U.S.P.Q.2D (BNA) 1023, 1027 (Fed. Cir. 1997) (‘The PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art . . .’); *In re Bond*, 910 F.2d 831, 833, 15 U.S.P.Q.2D (BNA) 1566, 1567 (Fed. Cir. 1990) (‘It is axiomatic that, in proceedings before the PTO, claims in an application are to be given their broadest reasonable interpretation consistent with the specification, . . . and that claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art.’) (emphasis added); see also M.P.E.P. § 2111.01 (‘The words of a claim . . . must be read as they would be interpreted by those of ordinary skill in the art.’). Prior art references may be ‘indicative of what all those skilled in the art generally believe a certain term means . . . [and] can often help to demonstrate how a disputed term is used by those skilled in the art.’ *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1584, 39 U.S.P.Q.2D (BNA) 1573, 1578-79 (Fed. Cir. 1996). Accordingly, the PTO’s interpretation of claim terms should not be so broad that it conflicts with the meaning given to identical terms in other patents from analogous art. Cf. *Morris*, 127 F.3d at 1056, 44 U.S.P.Q.2D (BNA) at 1029 (approving the board’s definition of claim terms consistent with their definitions in CCPA cases).”

In re Cortright, 165 F.3d 1353, 1358; 49 U.S.P.Q.2d (BNA) 1464 (Fed. Cir. 1999).

Young ‘291 identifies element 105, not element 106, as the cover, which is a structure identical to Applicants’ cover. The wedge 106 of Young ‘291 is not the cover called for in claim 1. Its purpose is to hold cover 105 in place, *Young ‘291*, col. 3, ln. 23-24, not to overlie, overspread, hide, shelter, or enclose. Applicants’ specification clearly identifies what constitutes

a cover, and a person of ordinary skill in the art would understand a cover for use in covering interior vehicle trim to be the cover described in Applicants' specification, and the cover 105 in Young '291. A person of ordinary skill in the art would not interpret the wedge 106 as a cover as used in claim 1.

For the same reasons, Young '291 does not disclose each and every element of claim 37 in as complete detail as is contained in claim 37. Claim 37 is patentable over Young '291.

Claims 2, 3, and 14 depend from claim 1, and claims 21 and 26 depend from claim 37. For the same reasons, claims 2, 3, 14, 21, and 26 are not anticipated by Young '291. For the above reasons, and for the reasons set forth in Applicants' Appeal Brief, claims 1-3, 14, 21, 26, and 37 are patentable over Young '291. Applicants request that the rejection be overturned, and that claims 1-3, 14, 21, 26, and 37 be allowed.

C. Claims 1-19, 21-27, and 37 are patentable over Applicants' allegedly acknowledged state of the art in view of Wright '151.

To establish a *prima facie* case of obviousness, several basic criteria must be met. Under *Graham v. John Deere*, 383 U.S. 1 (1966), it is necessary to 1) determine the scope and content of the prior art; 2) ascertain the differences between the prior art and the claims at issue; 3) resolve the level of ordinary skill in the pertinent art; and 4) evaluate evidence of secondary consideration. Additionally, the obviousness evaluation will be informed by a showing of teaching, suggestion, or motivation that would lead a person of ordinary skill in the art to combine the prior art to meet the claimed subject matter, although a rigid application of this showing is not required. The obviousness analysis must be explicit, and it is necessary to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the prior art elements in the manner claimed. *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. ___, 127 S. Ct 1727; 82 U.S.P.Q.2d (BNA) 1385 (2007). As discussed in the Appeal Brief, these criteria have not been met in the case of the asserted rejection, and the rejection must fail.

The Examiner asserts that Applicant's acknowledged prior art comprises "a molded (i.e. uninterrupted, since the molded trim product is disclosed as being made by injection molding a plastic into a mold and the plastic takes the shape of the mold), simulated leather cover with texturing to simulate leather and a simulated French stitching that closely resembles cut and sew hand wrapped leather trim products with the exception that there is no thread in the parallel seams." However, nothing in Applicants' discussion of the prior art indicates that prior art molded covers are uninterrupted, and the Examiner's characterization of the admitted prior art cannot include the "uninterrupted" limitation. The fact that a cover may be injection molded is insufficient to support the conclusion that the covers are necessarily interrupted, since an injection molded cover may be readily molded to incorporate interruptions.

Wright '151 discloses covers that are interrupted, i.e. cut: "The seam 4 is formed by cutting a portion (as shown by dotted lines 3 in FIG.2) of the decorative cover 2 such that the decorative cover 2 defines a first part 14 and a second part 16." *Wright '151*, ¶[0022], *ln. 6-9*. The combination of the Examiner's characterization of the acknowledged prior art with Wright '151 teaches a molded cover that is separated along a seam line, and stitched together to form a seam. This comprises an interrupted cover. This is not the invention of either claim 1 or claim 37. Thus, whether the combination is proper or not, it would not teach the invention of claims 1 or 37.

Claims 2-19 depend from claim 1. Claims 21-27 depend from claim 37. For the same reasons, claims 2-19 and 21-27 are not obvious over the Examiner's characterization of the acknowledged prior art in view of Wright '151. For the above reasons, and for the reasons set forth in Applicants' Appeal Brief, claims 1-19, 21-27, and 37 are patentable over the Examiner's characterization of the acknowledged prior art in view of Wright '151. Applicants request that the rejection be overturned, and that claims 1-19, 21-27, and 37 be allowed.

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CONCLUSION

In view of the foregoing, it is submitted that the continuing rejection of claims 1-19, 21-27, and 37 is improper and should not be sustained. Therefore, a reversal of the rejection of claims 1-19, 21-27, and 37 is respectfully requested.

Respectfully submitted,

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Dated: July 9, 2007

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